

LEGAL FRAMEWORK FOR THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) IN THE NIGERIAN JUSTICE SYSTEM: A CALL FOR REVIEW*

Abstract

The advancements in Information and Communications Technology (ICT) have not only changed the law of nature or converted the entire world into a global village but have also brought this generation to a situation where everything is moving at a fast pace. Its dynamics and multimedia potential make information dissemination effective and life invigorating. It is however unfortunate that the Nigerian judiciary has not fully adopted the use of ICT in its administration of justice. The problem either stems from the non existing comprehensive legal framework and the proliferation of laws on e-justice process scattered across Federal and State legislations, NJC policies and recommendations or from the partial/non-application of electronics and modern information and communications technologies in our judicial institutions. The consequences are loss of case files, delay in our justice system, caused by manual filing process; high volume of court records and cases with limited space and time; delay in communication of rulings, judgments and orders of courts. The greatest consequence of the non application of ICT during the coronavirus (COVID-19) Pandemic is the total collapse of the Nigerian judiciary amidst the 'sit at home' declaration by the Federal Government of Nigeria and the Chief Justice of Nigeria (as it relates to Courts in Nigeria). The aim of this piece is to find out the factors militating against the adoption of the use of ICT in the Nigerian justice system. In doing so, this work will not only be discussing the legal framework for the use of ICT in Nigeria but also proffered solution thereto. This work therefore made a fundamental recommendation for a full capacity launching of the use of ICT in the administration of justice in Nigeria. This will be achieved by the provision of ICT infrastructure and equipment to all courts jurisdictions, provision of adequate funding, uninterrupted power supply, adequate training, provision of internet networks and adequate physical and software security and anti-virus software for the courts technologies. This work also made a case for a review of all the ICT enabling laws and for the strengthening of court institutions towards achieving a transition to into e-justice system in Nigeria.

Keywords: Legal Framework, Information and Communications Technology, Use of, Nigerian Justice System, Review

1. Introduction

The 20th Century witnessed rapid and new innovative technologies in line with the use of internet, bringing fundamental changes in the way things happen, e.g. the way we live, work and think in this world of digital technology whereby people are peering to the new horizon.¹ Today, one can only surmise where technology progresses and its legal dimension will take in years because the virtual world of Information Communications Technology is as dynamic and invigorating as life itself. It explores itself and expands into new paradigms and reveals new facts each day. The more one learns about it, the more there is still to write.² ICT is important because it touches almost all aspects of human transactions and therefore will have its own legal perspective and has led to the growth of numerous legal issues relating to e-commerce, domain name, criminality, online banking, cybercrimes, e-contracts, e-signature, and intellectual property rights.³ There is no doubt that ICT has also been useful in the administration of justice. The use of electronic evidence in Nigerian courts, in civil and criminal proceedings, has, in recent years grown, both in volume and importance.⁴ However, the level of its growth leaves much to be desired in the midst of the proliferation of uncomprehensive ICT enabling laws, and the dearth of ICT machineries in our courts as institutions of justice and its consequences includes, but not limited to, the wanton delay in the administration of justice. Although it is a new development in the Nigerian justice system, same has tremendously been viable in other foreign jurisdiction.

The Legal and Judicial Process essentially entails various levels of information gathering and communication between stakeholders; filing and service of processes, exchange of documents and a lot of paper works which makes the conventional practices and procedures prone to undue and avoidable delays in justice dispensation.

* **By Chukwunonso Augustus ANIEKWE, LLB (Hons.), BL, LLM (In View) (ICT Law).** Graduate Student, Faculty of Law, Nnamdi Azikiwe University, Awka, Nigeria. Email: justiceaniekwe@gmail.com Phone No: +2348066922005,

¹ B Colin & S Lara (eds), *Telecommunication Regulation Handbook* (10th Anniversary Edn) The International Bank for Reconstruction and Development/ The World Bank, InforDev and The International Telecommunications Union, (Washington 2001).

² K Seth, *Computers, Internet and New Technology Laws*, LexisNexis, Haryana, Updated Edition, 2013, p.11

³ A Verma, *Cyber Crimes and Law*, Central Law Publications, Allahabad, First Edition, 2009 p.6

⁴ A O Ajileye, *Electronic Evidence* (revised ed.), Jurist Publication Series, Kogi State, 2019, p.56

The advent of court room technology as a means for putting evidence before everyone in the court room has put to fore the inevitability of technological revolution in the justice process and system. It has therefore become imperative for the Nigerian Judiciary and the entire legal system to embrace ICT in its service delivery.⁵

To lend credence to the preceding assertions, it is most unfortunate to note that the coronavirus disease (COVID 19) has crippled the Nigeria judiciary alongside other critical sectors of Nigeria (due to their non application of ICT in their processes), save the banking and telecommunication sector. It could be recalled that following the ‘Sit at home’ Policy of the Federal Government of Nigeria, the Chief Justice of Nigeria and Chairman, National Judicial Council, had by a letter dated 23rd March, 2020, directed Heads of Court to suspend court sittings for an initial period of two weeks from 24th March, 2020, save urgent, important and time bound matters.⁶ The result was a total shut down of the court without the use of ICT as an alternative way out, as they barely exist in our judiciary.

This work is therefore significant because it explores avenues to broaden the accessibility of the ICT options and materials in the Nigerian court to expedite the dispensation of justice in line with global best practices. The suggestions and recommendations in this study shall also serve as a resource material for the various courts in Nigeria, researchers, law lecturers, law students, the Legislature at the Federal and State levels and the government generally, to guide them on policy making and amendment of laws relating to ICT. The legal framework for the use of ICT in the Nigerian justice system is the body of applicable laws, NJC policies, and Rules applicable in the various justice institutions in Nigeria. This paper examines the enablement or otherwise of these laws to the use of ICT in achieving expeditious and effective justice delivery in Nigeria.

2. The Legal Framework for the Use of ICT

Judicial Information Technology Policy of the Nigerian Judiciary (JITPO)

The Judicial Information Technology Policy (JITPO) is one of the foremost legislation for the use of ICT in the Nigerian judiciary with laudable and practicable provisions albeit not in force. The former Chief Justice of Nigeria (CJN), Honourable Justice Dahiru Musdapher, GCON (Rtd) inaugurated the Judicial Information Technology Policy Formulation and Implementation Committee (JITPOCOM) on the 30th of January, 2012. One of the main tasks of the Committee was to develop a comprehensive Information Technology Policy which could be implemented in all Jurisdictions of the Nigerian Judiciary. The Committee’s other major tasks include the selection, adoption and implementation of suitable ICT solutions for the Nigerian Judiciary such as a CCMS and a Cloud-based e-mail Solution. The Committee’s efforts yielded the publication of the JITPO policy document, which was formally launched by the then CJN, in July, 2012.⁷ The question that called for answer is, what are the innovations introduced by the policy, the issues and challenges arising from the policy documents and to what extent has the provisions of the policy been implemented in the judiciary all through the jurisdictions of courts (at all levels) in Nigeria. It is however unfortunate that the feasible and innovative provisions of the Policy fundamentally lack implementation, having not been legislated upon by the National Assembly/ States’ Houses of Assembly, or incorporated in the various Rules by the Heads of Court. The JITPO policy document covers a lot of areas that can be considered as CSF (critical success factors) to effective ICT utilization in Nigerian Courts. For the implementation of the court automation project in the Nigerian Judiciary, a key component is to setup IT infrastructure in all the court complexes. ICT infrastructure provides a technology foundation within an organization. It enables judges, court officers, lawyers and litigants to access a wide range of tools, services and digital resources to support the effective dispensation of justice. The JITPO made provisions for the procurement of Local Area Network, Wireless Networks, Wide Area Network, Hardware, Software, Web Portal, Internet/Portal Services, E-mail Services, Portable Devices, Case Management Software, E-filing, Electronic Document Management System (EDMS), Virtual Library, Video Conferencing, and E-Court (technological) Systems.

⁵ M D Abubakar, *Application of Information Technology in the Administration of Justice*, a paper presented at a refresher course for Judges and Kadis organised by the National Judicial Institute between 11th and 13th March, 2019, <https://nji.gov.ng/wp-content/uploads/2019/03/APPLICATION-OF-INFORMATION-ECHNOLOGY-IN-THE-ADMINISTRATION-OF-JUSTICE-2.pdf> accessed 31st January, 2020

⁶ Re: Prevention Measures on the Spread of Corona Virus (Covid-19) and the Protection of Justices, Judges and Staff of Courts, with ref. no. NJC/CIR/HOC/11/631 in the hand of Hon. Justice I.T. Muhammad CFR, the CJN. Retrieved from <https://nicn.gov.ng/26/news-details> Accessed on 17/02/2020.

⁷ S Usman, *Introduction to Judicial Information Technology Policy* https://nji.gov.ng/images/Workshop_Papers/2017/IT_Workshop/s1.pdf, p.4 Accessed 14/02/2020.

Evidence Act 2011

On July 19, 2011, the administration of justice system in Nigeria got a big boost with the coming into force of a new Evidence Act, 2011 after being signed into law by President Goodluck Jonathan sequel to its passage by the National Assembly. The old Evidence Act (of 1945) which was fortunately laid to rest had been criticised for most of its anachronistic provisions, especially, its lack of recognition of modern documentary probative tools like computer generated print-outs, electronic digital messages and other paraphernalia of business and commerce of this Information and Communication Technology age.⁸ Some of the new provisions include improperly obtained evidence covered by sections 14 and 15, hearsay rule (sections 37 and 38), the much expected and important innovations is the computer generated evidence under section 84.

Perhaps, one of the most far-reaching innovations introduced by the Evidence Act, 2011 is the inclusion of several provisions dealing specifically with the admissibility of computer-generated evidence.⁹ Although computer-generated evidence, particularly entries in bankers' books, has been held admissible under the provisions of the repealed Evidence Act,¹⁰ the Evidence Act, 2011 contains elaborate provisions dealing with the admissibility of computer-generated evidence.¹¹ It is clear from the section 84(1) that the admissibility of computer-generated evidence or document downloaded from the internet in any judicial proceeding is made subject to the fulfilment of the conditions prescribed in sub-section (2) of s. 84 of the Evidence Act, 2011. In *Kubor v. Dickson*, it was held by the Supreme Court that a party that seeks to tender in evidence, a computer-generated document needs to do more than just tendering same from the bar. Evidence in relation to the use of the computer must be called to establish the conditions specified in s. 84(2) of the Evidence Act, 2011 and that failure to fulfill those conditions will render the computer-generated evidence inadmissible. The innovations and or consequences of the amended Evidence Act, 2011 have settled the issues relating to the admissibility of some specific forms of electronic evidence to wit: Digital Photographs, Internet Printouts and Social Media Posts, Automated Teller Machine (ATM), Tape and Video Recordings. It is now beyond any dispute that tapes and other sound recordings are documents. There are legislative and judicial authorities to support this standpoint. Section 258(1) of the Evidence Act, 2011 now defines 'document' to include video and audio tapes. The Court of Appeal affirms that the video recordings admitted in *Obatuga & Anor. v. Oyebokun & Ors.*¹² are documents. Moreover, Electronic Mails (E-Mails) and Short Messages Services (SMS) and Instant Messages (IM) are by the new Evidence Act, 2011 now admissible. No wonder, they are now recognised means of amongst other things issuing hearing notices. It is only unfortunate that the INEC Smart Card Reader is inadmissible to the extent that it cannot be admitted to supplant the manual register as held in *Wike Ezenwo Nyesom v Hon. Dr. Dakuku Adol Peterside & Ors*¹³ and *Atiku Abubakar & Anor v. Independent National Electoral Commission (INEC) & Ors.*,¹⁴ *inter alia* and the Supreme Court has failed to step away from their current position which has affected our electoral jurisprudence in the face of the mischief which the introduction of the card reader machine was originally set to suppress; and impeded on the development of ICT in our judicial system.

Administration of Criminal Justice Act 2015

The Administration of Criminal Justice Act (ACJA) is divided into 48 parts with 495 sections. It merges the two principal legislations i.e. the Criminal Procedure Act (CPA)¹⁵ and the Criminal Procedure Code (CPC).¹⁶ Thus, the ACJA, 2015 repealed the CPA, CPC and the Administration of Criminal Justice Act.¹⁷ Aside from some general innovations of the Act, the Act introduced the use of ICT in the administration of Criminal justice in Nigeria to wit: the voluntary recording of arrest and confessional statement in writing or electronically recorded on a retrievable video compact disc or such other audio visual means; the Establishment of a Police Central Criminal Registry; Electronic Record of proceedings; Examination of a witness through video link under section

⁸K Kayode, *New Evidence Act and implications for administration of Justice: As Nigeria finally drops a 68-year old former law*, 2012, https://groups.google.com/forum/#!topic/usaafriacdialogue/FtVKfJ8_20w Accessed 20/02/2020.

⁹ Z Adangor, *What Is Innovative in the Evidence Act, 2011?* *Journal of Law, Policy and Globalization* www.iiste.org, ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online) Vol.43, 2015, p 39

¹⁰ Repealed Evidence Act cap E14, s. 97(1)(h) and 97(2)(e); *F. R. N. v. Fani-Kayode* [2010] 14 N. W. L. R. (1214) 481.

¹¹ See sections 50, 51, 84(particularly), 86, 87, and 93 of the Act.

¹² (2014) LPELR – 223 44 (CA); see also *Federal Polytechnic Ede & Ors v Oyebanyi* (2012) LPELR – 9833 (CA)

¹³ (2016) 7 NWLR (part 1512) 452 at p.522

¹⁴ LER [2019] CA/PEPC/002/2019; (2019) LPELR-47171 (CA). Retrieved from <https://legalpediaonline.com/atiku-abubakar-anor-v-independent-national-electoral-commission-inec-ors/>

¹⁵ CAP C41, LFN 2004

¹⁶ CAP C42, LFN 2004

¹⁷ CAP A3, LFN 2004

234 of the Act. This novel provision of the ACJA was utilized by the Economic and Financial Crimes Commission (EFCC) in the charge against the former Adamawa State Governor, Murtala Nyako. The United Kingdom based Kobis Arithimni who is the EFCC's principal witness in the ongoing alleged ₦40 billion trial of former Governor on Tuesday, 5th November, 2019, on the permission of the court, testified before the Federal High Court, Abuja through video link in accordance with s.232(3) of the ACJA.¹⁸

Sheriff's and Civil process Act Cap S 6 Laws of the Federation of Nigeria, 2004

The Act made provisions for the appointment and duties of sheriffs, the enforcement of judgments and orders, and the service and execution of civil process of the Courts throughout Nigeria. Unfortunately, none of its provisions recognized the use of ICT in the administration of justice process in Nigeria.

Supreme Court Act 2004

Unfortunately, this Act¹⁹ did not make any provision enabling the use of Information and Communications Technology in the administration of justice in Nigeria in the Supreme Court.

Supreme Court Rules

The Supreme Court Rules²⁰ unfortunately did not also make any express provision for the use of electronics in the Supreme Court, even if it is just as a means for service. Order 2 Rule 2 of the Rule, only provided for services by way of leaving process at the address of the party to be served or by registered post to that addressee. This is not a good one as it is most unfortunate that, amidst the asymmetrical growth of technology in Nigeria, a court as big as the highest court of the giant of Africa has no effective legal framework for the use of ICT in its justice administration. However, some courts below have made effort to inculcate the use of ICT in the administration of justice in Nigeria. No doubt, it is indeed, a clarion call on the Supreme Court and the Chief Justice of Nigeria to live up the expectations.

Supreme Court (Criminal Appeal) Practice Directions 2013

Justice Aloma Mariam Mukhtar, GCON, the Chief Justice of Nigeria (as he then was) had in exercise of the power conferred on him by section 236 of the Constitution of the Federal Republic of Nigeria 1999 (as amended); Order 10 rules 2 of the Supreme Rules, 1999 (as amended) and by virtue of all other powers enabling him, made the Supreme Court (Criminal Appeals) Practice Direction, 2013, the purpose of which according to Order 1(1) of the Directions is to amongst others, establish a specialized system of case management in the Supreme Court of Nigeria, that will provide for the fair, impartial and expeditious administration of criminal appeals out of case listed in Rule 2 of the these Practice Directions. More so, in furtherance of the objectives and guiding principles of the Directions on service of notices, Order 3 (3) of the Directions provides that "To ensure speedy dispensation of justice, electronic mail, e-mail and other electronic means may be employed by the court in order to inform counsel of urgent court and case events; provided that such notification shall be given at least forty-eight hours before the schedule court date". Sub-rule (4) further provides that "in line with the provision of Rules 3(3) of this Rules, Parties are expected to furnish the court Registrar with functional telephone numbers and e-mail address of themselves and their counsel.

Court of Appeal Rule 2016

The whole of Order 2 of the Court of Appeal Rules, 2016 talked about 'service' with emphases on personal service of notice of appeal. However, subrule 1 (b) of the Order provides that it shall not be mandatory for notices, orders, summons, warrants or other processes of the court to be served personally except as may be otherwise provided in these Rules or in any other written law. However it can be gleaned from the proviso to Order 2(1) (a) of the rules that services may be effected by other means (not excluding electronic means [my additions]) when it states that if the court is satisfied that notice of appeal has in fact been committed to the Respondent, no objection to the hearing of the appeal shall lie on the ground that the notice of appeal was not served personally. The provision of Order 2 Rule 10 provides that where process(es) are not required to be served personally, shall be sufficiently served if: (amongst others) (c) transmitted by electronic means to the electronic mail address or facsimile number or any other mode of electronic communication.

¹⁸B Nyako, https://theeagleonline.com.ng/nyako-efcc-witness-testifies-via-video-link-on-alleged-n40b-fraud/amp/?_twitter_impression=true Accessed 07/11/2019

¹⁹ Supreme Court Act, Cap S 15 Laws of the Federation of Nigeria, 2004.

²⁰ Supreme Court Rules 1985 (as amended 1999)

Court of Appeal Practice Direction 2013

The only provision enabling the use of ICT in the Court of Appeal Practice Direction, 2013, is in Order 5. Order 5(c) enabled the use of ICT in effective cause of justice when it provides that electronic mail and other electronic means may be employed by the court in order to inform counsel of urgent court and case event.

Court of Appeal (Fast Track) Practice Directions, 2014

Order 1 of the Directions defined the word 'signature' to include name, initials or mark whether fundamentally printed typed or computer generated. In accommodating the use of technology, the Directions gave an innovation when it provides that Active Case Management includes using technology, penalising delay tactics with heavy cost, and ensure expeditious dispensation of justice (emphasis on the use of technology). On electronic service and signature, order 14 (1) of the Practice Directions 2014 provides for (1) a requirement that a document should be signed is satisfied if the signature is printed by computer or other electronic means. Subrule (2) provides that a document served by electronic means is deemed to have been served by the person who owns or subscribes to the electronic source account if its signature appears on the document or its cover message as the sender.²¹ No doubt the Supreme Court held in *ENL Consortium Ltd v Shambilat Shelter (Nig) Ltd*²² that court processes can be served electronically.

Federal High Court (Civil Procedure) Rules 2019

It is however, most unfortunate to note that the whole lists of modes of service of process under Order 6(1) and Order 6(5) concerning substituted service, did not enable service through electronic means neither did Order 47 relating to Cause list provide for an online publication of the Cause list. Nevertheless Order 58 of the Rule is innovative. Even though it is formulated in the future terms, it can be a veritable tool in the hands of a proactive Chief Judge of the Federal High Court to launch a working e-filing platform for the Court. Whether this provision has been activated by the court is a different matter. Another important innovation of the Rule is that it allows the use of electronic signature²³ even though the manual signatures are not completely excluded.

High Court of the Federal Capital Territory Abuja (Civil Procedure) Rules 2018

Undoubtedly, the High Court of FCT Rules made substantial provisions enabling the use of ICT in its judicial process more than some few other superior courts. Order 3 Rules 5 of the Rules,²⁴ on electronic service of process, provides *inter alia* that suits and interlocutory applications may be filed and served by Counsel vide electronic means in accordance with the Directions as may be made by the Chief Judge. Moreover, where parties are represented by counsel, advance copies of processes other than originating process may be served by email.²⁵ The Rule also permits the court to serve hearing notices via email and/or SMS except as otherwise directed by the judge.²⁶ The enablement of the use of e-mails for service of processes and use of e-mails and SMS for service of hearing notice by the Rules have moved the court further towards achieving the ICT dream of the modern judiciary.

National Industrial Court of Nigeria (Civil Procedure) Rules 2017

The National Industrial Court of Nigeria (NICN) is a specialized Court created out of the need to decongest the burden of the regular Court and to ensure efficiency in the dispensation of justice solely for handling labour disputes with a unique procedure for ensuring that such disputes are expeditiously dealt with and the interests of workers are safeguarded within the working place.²⁷ The Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010 not only recognizes the NICN as a specialized Court of superior record, section 254 C thereof provides for the exclusive jurisdiction of the Court over all labour and employment issues.²⁸ The National Industrial Court is one of the of best ICT compliant courts in Nigeria. The National Industrial Court Rules indeed made some tremendous improvements, as some of the provisions in the NIC (Civil Procedure) Rules 2017 laid

²¹ Examples of electronic source accounts are e-mail addresses and fax numbers. See 14(3) of the Court of Appeal (Fast Track) Practice Directions 2014.

²² (2018) 11 NWLR (Pt. 1630) 315 Sc at 318

²³ See Order 58 Rule 8 of the Federal High Court Rules where it states that electronic signature shall constitute the parties signature on a document.

²⁴ High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules, 2018

²⁵ Order 7 (16) of the Rules, *Ibid*.

²⁶ Order 7 (17), *Ibid*.

²⁷ O D Amucheazi & P U Abba, *The National Industrial Court of Nigeria: Law, Practice and Procedure* (Top Design 2013) 42.

²⁸ *Ibid*, section 7 and Constitution of the Federal Republic of Nigeria (Third Alteration), 2010, section 254C.

down some provisions that enabled the use of ICT in our justice administration. Most remarkable of the innovations of the Rules is the establishment of Communication and Service Centre for Electronic Filing (E-Filing) under Order 66 of the Rules; electronic service of processes; and electronic service of hearing notice under Order 7 Rule 1(1) and Order 7 Rule 1(2) of the Rules respectively. Furthermore, Order 7 Rule 1(4) provides for modes of services of court processes other than originating processes through any of the following devices: fax machine, where available; electronic message or Short Message Service (SMS)²⁹ via the e-mail address and telephone number(s) provided by the party or/and the party's counsel respectively; and any other electronic communication and messaging platform.

3. The Importance of the use of ICT in the Nigerian Justice Administration

Information and Communication Technology (ICT), is highly important in business, academia, economy and even in the justice administration (my addition). ICT opened access to education and knowledge. ICT has huge potential to transform a society including the justice system as there are overwhelming records of the benefits of the use of ICT in the justice system of most jurisdictions that have embraced it. ICT can reduce the rate of poverty and improve the economic and social status of people.³⁰ Information and Communications Technology (ICT) solutions could be deployed in a variety of ways to ensure efficiency, minimise delays, engender transparency and integrity in the system. The useful question here is: how does ICT then enable the courts to be modern, that is efficient, effective and equitable? ICT can be a useful tool in the following areas: Text Creation, Storage and Retrieval, Improved Access to the Law, Case Management, Enablement of E-filing, Transparency, Security of Court Documents, Easier and Faster Access to Information, Cost Savings, Space Savings, Quick Dispensation of Justice, increases efficiency, promote easy research, and allows for easier information retrieval. ICT also allows for the digitalization of Court Process and dispenses with manual and human activity in the justice administration process. The use of ICT in the administration of justice helps the courts in stepping away from the erstwhile analogue system of justice with its attendant delay and ineffectiveness in the administration of justice, to the overall digitalization of the court process. This will promote e-filing, electronic adoption of motions (including but not limited to ex-parte motions) and some special/urgent courts processes without the legal practitioner coming to the court. The effective use of ICT will allow counsel representing parties in cases to exchange their pleadings using their e-mails or court websites; and will also allow the court to give and publish their rulings and judgments, all without the counsel coming to the court.

The present pandemic that plagued the world with Nigeria not being an exception has exposed the archaic nature of the Nigerian justice system. While only the banking and telecommunication section stood out during the period due to their complete/near-complete digitalization of that sector, other section including the education and judicial sector crashed their operation in the midst of the coronavirus disease (COVID 19) ravages in the first quarter of 2020, due to non-integration ICT in the Nigerian justice process. The order given by the Chief Justice of Nigeria directing the heads of various courts in Nigeria to close down for two week without an attendant guideline on how court activities will be carried out through electronic gives credence to the failure of the whole judicial system in adapting to the use of ICT.

4. Pitfalls in Acquisition and Deployment/use of Information and Communications Technology (ICT) in our Justice System

There are numerous challenges to contend with in the application of ICT to the Judicial Process in Nigeria. However, these challenges should not impede on taking advantage of Information Technology to advance the course of justice administration. The major challenges are: Epileptic Electricity Power Supply and Lack of general use of internet enabled telephone, Lack of IT Skills on the part of judges/Magistrates, judicial staff, and legal practitioners; Inadequate Relevant Legal & Regulatory Framework, breeding of Criminality, Infiltration of the judiciary by the media and possible bias publication of judgments by law reporters, Ugly reliance of old Legislations, Limited Computer/Electronics availability and Maintenance Capacity, High Cost of Bandwidth/internet networks, Lack of technical know-hows and High cost of training/ capacity building, Resistance to Change towards the use of ICT in the Judiciary, Inadequate Funding, Limited Internet Access/Network connectivity and network failures, and Susceptibility to Cyber Attacks.

Notwithstanding these challenges, many foreign jurisdictions have lived beyond the challenges and established for themselves and judiciary driven by modern technology. For example, jurisdictions like China, South Korea,

²⁹This Rule has a proviso to the effect that Provided that the use of Short Message Service (SMS) shall be limited to communicating dates of hearing or any change in respect thereof and not to be extended to service of other court processes, proof of which must be filed in the Court's record.

³⁰ Z. Agu, History of ICT in Nigeria, <https://www.legit.ng/1146264-history-ict-nigeria.html> Accessed 08/02/2020

Australia etc have advanced into a working technology driven courts, artificial intelligence anchored on a veritable legal framework.

5. Summary of Findings

After a thorough research into this unique topic with contemporary importance to the judiciary of both developed and developing countries with emphases on the Nigeria's justice system, the study makes the following findings.

1. That there is partial/non-application of electronics and modern information and communications technologies in our various courts/ justice system and in all courts of record in Nigeria.
2. That there is a non existing comprehensive legal framework and there are proliferation of laws on e-justice process scattered across Federal and State legislations, policies and rules (of courts) in Nigeria which have not aided the institutions of justice in making any headway in achieving a paradigm shift from the anachronistic manual system to modern practice of ICT in line with global realities in the administration of justice.
3. The ICT enabling laws like the Judicial Information Technology Policy of the Nigerian Judiciary (JITPO), the National Judicial Policy, the Evidence Act 2011, the Administration of Criminal Justice Act, 2015 and whole lots of other Court Acts, Rules, Policies and Direction have not proven effective. They are not only incomprehensive, lack proper implementation and not being ICT proactive but also, as a matter of fact, some laws and rules of procedure run counter to ICT regime.³¹ The JITPO remains a mere policy document and fundamentally lacking enforcement save if legislated upon or incorporated in Court Rules and Directions by Heads of Courts
4. That the Courts at all levels (as institutional framework for the use of ICT in the Nigerian justice administration) have also not lived up to their expectations in changing the narratives not only in making a case and indeed seeing to the adoption of ICT in the administration of Nigeria but also in using their powers as law makers³² to made ICT dream of the modern judiciary, a success story in Nigeria.
5. That there are numerous challenges/pitfalls that face acquisition, deployment and application of ICT to the Judicial Process in Nigeria. They include lack of electricity, ugly reliance of old legislations, limited computer/electronics availability and maintenance capacity, high cost of bandwidth/internet networks e.t.c.

6. Conclusion and Recommendations

In conclusion, it is submitted that Information technology is being used in almost every field now to achieve speed, efficiency and effectiveness in service delivery. The judiciary should not be an exception. There is a need right now to make the judiciary more accessible, transparent, speedy and efficient. Therefore, the present Nigerian Government should be committed to take this country into the Computer Age. The outlook for Nigeria is sunny with clouded patches. With the world becoming a global village as a result of ICT revolution, the Nigerian Judiciary cannot afford to be left out of this village. Though the challenges of ICT deployment in the judicial process are enormous, they are not all together insurmountable. It is therefore submitted that applying ICT to the legal and judicial process will reduce, if not eliminate, inefficiency, inaccuracy, lack of transparency and integrity which are the major problems of justice dispensation in Nigeria. For the Nigerian Judiciary to meet up with Information Technology revolution, it is imperative for all of us in the Judiciary to be ready, determined and committed to be computer literate and embrace the ICT regime. This is the only way we would remain relevant in the ever-changing world of communication super highway.³³

For effective introduction and implementation of ICT in the Judiciary, the following recommendations are carefully offered by the writer:

This work makes a fundamental recommendation for a full capacity launching of the use of ICT in the administration of justice in Nigeria. The first step is to ensure the provision of ICT infrastructure and equipment to all jurisdictions. The adoption of National Judicial Policy on Information Technology and amendment of laws, Courts Rules to reflect the recommendations of these policy documents will be key to the actualization of the ICT dream of the Nigerian judiciary even amidst the COVID-19 Pandemic The National Information Technology Development Agency(NITDA) and the National Communication Commission(NCC), the main regulatory bodies on ICT, in corroboration with the National Judicial Council, National Judicial Institute and all heads of court and ICT scholars and experts, must understudy the operation of E-judiciary of other countries and adopt it with modifications that would suit our circumstances.³⁴

³¹ M D Abubakar, *Ibid*.

³² C A Aniekwe, *American Realism and the Nigeria Judicial System; a Comparative Analysis: Law Review on Contemporary Legal Issues in Nigeria*. In P O Idomigie (ed.), *The Jurist*, (A Publication of Law Students Association of Nigeria, University of Abuja, FCT, Abuja, Nigeria, 2016), pp. 119-125

³³ *Ibid*

³⁴ M D Abubakar, *Ibid*

It is highly desirable that each jurisdiction in the Nigerian Judiciary aspire to implement and enforce the guidelines provided by Jurisdictions should also explore opportunities to collaborate and share some ICT services and thus, reduce costs of implementation and maintenance. The National and State Houses of Assembly are therefore urged to legislate on, review and/or amend the JITPO and other ICT enabling laws (respectively) by way of incorporations of other new relevant provisions that will enable a holistic introduction and use of ICT in the Nigeria's justice administration. More emphasis should be placed on the continuous ICT training for Justices/Judges and Magistrates and also the rank and file of other Judiciary personnel. ICT should exist as a unique department (and or Monitoring/Regulatory Units) in all Jurisdictions and an efficient organizational structure created for the ICT (as advised in the JITPO document). Concerted efforts should be continuously made to identify, select, and work with only reputable, experience and dependable ICT vendors and consultants, as this impacts heavily on the success or otherwise of ICT projects.

The various courts in Nigeria are therefore called upon to brazen up and see to the full realization of the use of ICT in their respective courts at both Federal and State level. The heads of Courts starting from the Chief Justice of Nigeria to the Presidents of Court of Appeal and the National Industrial Court e.t.c. should review that various court rules to accommodate wholly the use of ICT in the entire court system starting from e-filing of all processes, to electronic courts, to e-judgment delivery and publication of same to e-appeal and e-transmission of records of appeal through their various functional websites and or e-mails. The Magistrates Courts and other lower courts and tribunal are not excluded in this development. Rules of Procedure have to be reviewed to accommodate the use of ICT.

There should be more funding consideration for ICT which will guarantee the procurement of modern technologies for courts across the Federation, implementation, training of manpower, provision of steady supply of electricity and or alternate energies, provision of quality internet networks and bandwidths from renowned service providers, maintenance and improvement according to e-strategy in the Nigeria's justice sector.